

REMARKS

Reconsideration of this application is respectfully requested. A marked-up version of the claims is included herein to show the changes made to claims 19-22, 57, 58 and 64.

STATUS OF THE CLAIMS

Upon entry of the foregoing amendment, claims 19 and 20 are pending in this application. Claims 1-9, 38-56, and 59-63 were previously allowed in the Office Action dated October 16, 2002. Claims 21, 22, 57, 58 and 64 are cancelled, and Applicants respectfully reserve the right to pursue the subject matter of these cancelled claims in a future patent application.

REJECTION UNDER 35 U.S.C. §112, SECOND PARAGRAPH

The Examiner rejected claims 19 and 20 under 35 USC § 112, 2nd paragraph. Claim 19 was rejected for recitation of the term “modulation,” which the Examiner alleged “includes agonism and antagonism ... which are not described in the specification.”

Applicants respectfully disagree with the Examiner’s assertions. Applicants respectfully assert that the term “modulation” is generally understood and well known by one of ordinary skill in the art to relate to up-regulation or down-regulation of a target receptor, such as the CCR5 receptor in the instant invention.

However, without conceding to the Examiner’s assertions, and in the interest of promptly advancing this application to allowance, Applicants have amended claim 19 to remove the term “modulation,” and substituted therefor the equally broad descriptive phrase “reduce or inhibit.” Applicants further reserve the right to pursue claims containing the term in future related patent applications. Applicants respectfully assert that the rejection to claim 19 has been overcome and should be withdrawn.

The Examiner also rejected claim 20, stating that “the term ‘genetically related’ in claim 20 is a relative term which renders the term indefinite.” Applicants respectfully disagree with the Examiner’s assertions, because one of ordinary skill in the art would

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understand the term as it applies to relative homologies between HIV-related viruses. However, without conceding to the Examiner's assertions, and solely in the interest of promptly advancing this application to allowance, Applicants have amended claim 20 to remove the term "genetically related." Applicants further reserve the right to pursue claims containing the term in future related patent applications. Based on the foregoing amendment and remarks, the rejection to claim 20 has been overcome and should be withdrawn.

REJECTION UNDER 35 U.S.C. §112, FIRST PARAGRAPH

The Examiner rejected claims 19-22, 57, 58 and 64 under 35 USC § 112, 1st paragraph, alleging that "[t]he specification is enabling only for the use of the inventive compound for treating an inflammatory disease." Applicants respectfully disagree with the Examiner's assertions.

Applicants' patent specification provides support for (and enablement of) these claims. For example, Applicants provide activity data for compounds falling within the scope of the claimed genus on page 62 of the specification.

However, without conceding to the Examiner's assertions, and in the interest of promptly advancing this application to allowance, Applicants hereby amend claims 19-20 to reflect the claimed treatment of an inflammatory disease, and cancel claims 21, 22, 57, 58 and 64. Applicants respectfully reserve the right to pursue the subject matter of these cancelled claims in future related patent applications.

Applicants respectfully assert that the rejection directed to claims 19-22, 57, 58 and 64 has been overcome and should be withdrawn.

CONCLUSION

Based on the foregoing amendments, cancellations and remarks, Applicants respectfully submit that this application is now in condition for allowance. Prompt issuance of a notice to that effect is respectfully requested.

A fee in the amount of \$110.00 is required under 37 C.F.R. § 1.136 and is due in connection with the filing of this Response; please charge these fees to our Deposit

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Account No. 50-0329. Should there be further fees required or overpayments, please charge all fees and credit all overpayments to our Deposit Account.

Respectfully submitted,


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CERTIFICATE OF MAILING
(37 C.F.R. §1.10a)

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

19. (Thrice Amended) A method of treating in a mammal a disorder comprising [in which the modulation of CCR5 receptors is implicated, which comprises] administering to said mammal an effective amount of a [CCR5 receptor antagonist] compound of claim 1 to reduce or inhibit the CCR5 receptor-associated responses in said mammal.

20. (Amended) A method of treating [HIV, a retroviral infection genetically related to HIV, AIDS, or] an inflammatory disease[,] in a mammal[, which comprises] comprising administering to said mammal an effective amount of a compound of claim 1.

21. (Deleted).

22. (Deleted).

57. (Deleted).

58. (Deleted).

64. (Deleted).

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